

REMARKS

The Examiner rejected claims 1 – 7, 9 – 26, 31 – 35, and 37 – 53 under 35 U.S.C. §102(a) as being anticipated by WO 01/19127 to Dougherty. In rejecting independent claim 1, the Examiner asserted that Dougherty teaches a mesh of RF-coupled base stations (40) and at least one concentrator (40) coupled to at least one said radio base station (20). This rejection is unclear. First, the Examiner asserts that numbers 40 and 20 both reference radio base stations. However, as described in Dougherty, 40 references a distribution point that distributes communication signals to wireless access points and 20 references a communication system. Because neither of these elements represents a radio base station according to the conventional understanding of the term, it is unclear what specific element of Dougherty is being identified by the Examiner as the radio base station. For at least this reason, the Examiner's rejection is unclear and must be withdrawn.

Further, the Examiner's rejection asserts that distribution point 40 of Dougherty corresponds to both the radio base stations and the concentrator(s) of claim 1 (see item 3, lines 5 and 12 of the office action). However, the radio base stations and the concentrator(s) are independent elements that interconnect to form part of the radio access network of claim 1. This is made particularly clear by the language "at least one concentrator coupled to at least one said radio base station...." In order for a §102 rejection to be legally sufficient, the Examiner must find each element in a single prior art reference. Because the rejection cited by the Examiner does not identify independent elements in Dougherty that meet the radio base station and concentrator limitations of independent claim 1, the rejection is legally insufficient and must be withdrawn.

Further, the Examiner asserts that the supervisor 56 of Dougherty corresponds to the base station controller of claim 1. Claim 1 requires a base station controller coupled to at least one concentrator "to process communications traffic to and from said mesh." As such, claim 1

requires that the base station controller handle communications traffic. Contrastingly, the supervisor 56 of Dougherty does not process or handle any communications traffic. Instead, the supervisor 56 tracks the locations of mobile stations within the communication system and manages transmission priorities based on various system parameters. Supervisor 56 may also operate as a collection point for alarms and performance measurements, may handle address assignments for each distribution point, may provide routing instructions for the communications traffic, and may assess the network performance. See page 16, lines 1 – 20. In other words, supervisor 56 is a control system that monitors and controls the distribution points 40 to ensure that traffic is routed efficiently in the network. Because the supervisor 56 does not actually process or otherwise handle the communication traffic, supervisor 56 is not a base station controller as defined by claim 1.

For at least the reasons discussed above, the §102 rejection of claim 1 cannot be maintained and must be withdrawn. As such, Applicants respectfully request reconsideration and allowance of independent claim 1 and dependent claims 2 – 15.

The Examiner rejects independent claims 16, 31, 38, 47, and 50 for the same reasons applied to claim 1. However, the rejections of these independent claims suffer from the same deficiencies identified above with respect to claim 1. As such, the rejections of independent claims 16, 31, 38, 47, and 50 also cannot be maintained and must be withdrawn. Applicants respectfully request reconsideration and allowance of claims 16, 31, 38, 47, and 50, as well as reconsideration and allowance of the corresponding dependent claims.

Applicants note with appreciation that the Examiner has indicated that claims 27 – 30 are allowable. Further, Applicants submit that claims 1 – 26 and 31 – 53 are also allowable in light of the above remarks. As such, Applicants request the Examiner reconsider the rejections and allow claims 1 – 53.

Applicants remind the Examiner that MPEP§706.05 requires that "the Examiner never lose sight of the fact that in every case the Applicant is entitled to a full and fair hearing, and that a clear issue between Applicant and Examiner should be developed, if possible, before appeal." Accordingly, if the Examiner believes the claims should remain rejected, Applicants respectfully request the Examiner clarify the rejections, address the above-identified deficiencies, and issue a second, non-final office action so that a clear issue may be developed between the Examiner and Applicants, and so that Applicants may have an opportunity to respond to the clarified rejection.

Should any issues remain unresolved, Applicants request the Examiner call the undersigned so that such issues may be expeditiously resolved.

Respectfully submitted,

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